

IN THE UNITED STATES DISTRICT COURT FOR THE **FILED**
EASTERN DISTRICT OF OKLAHOMA

MAR 31 2011

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By _____
Deputy Clerk

EZEKIEL DAVIS,

Plaintiff,

v.

CORRECTIONS CORPORATION
OF AMERICA, et al.,

Defendants.

No. CIV 09-466-RAW-SPS

OPINION AND ORDER
DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL


Plaintiff has filed another motion requesting the court to appoint counsel. He still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). He is complaining that the defendants filed a document under seal [Docket No. 40], and he has no access to the information contained in the document.

The court again has carefully reviewed the merits of plaintiff's claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). The sealed document relates to a confidential investigation conducted by DOC Internal Affairs, but the court finds plaintiff will not be prejudiced by not viewing the document. After considering plaintiff's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel still is not warranted. *See Williams v.*

Meese, 926 F.2d 994, 996 (10th Cir. 1991); *see also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

ACCORDINGLY, plaintiff's motion [Docket No. 62] is DENIED.

IT IS SO ORDERED this 31st day of March 2011.



RONALD A. WHITE
UNITED STATES DISTRICT JUDGE